

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

SHIRA KOHN and ANDRES VIVAS, *on behalf of themselves and all others similarly situated,*

Plaintiffs,

V.

LOREN D. STARK COMPANY, INC.,

Defendant.

§ Lead Case No. 4:23-cv-03035

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Consolidated Case:

4:23-cv-03643

Judge Lee H. Rosenthal

**PLAINTIFFS' UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiffs Shira Kohn and Andres Vivas (“Plaintiffs”), on behalf of themselves and all others similarly situated, respectfully move this Court to:

1. Preliminarily approve the Settlement described in the “Settlement Agreement” between Plaintiffs and Defendant Loren D. Stark Company, Inc. (“Defendant” or “LDSCO,” and, together with Plaintiffs, the “Parties”), attached as **Exhibit B** to Plaintiff’s Memorandum of Points and Authorities in Support of this Motion (“Memorandum”), and the accompanying exhibits, including the Short Form (Postcard) Notice, the Long Form Notice, the Claim Form, the [Proposed] Order Granting Preliminary Approval of Class Action Settlement (“[Proposed] Preliminary Approval Order”), and the [Proposed] Final Order and Judgment Granting Final Approval of Class Action Settlement (the “[Proposed] Final Order and Judgment”), attached to the Settlement Agreement as **Exhibits 1 through 5**, as fair, reasonable, and adequate;

2. Provisionally certify the Settlement Class pursuant to Federal Rule of Civil Procedure 23 for settlement purposes only;

3. Approve the Notice program set forth in the Settlement Agreement, including the use of Notices substantially similar to those attached as **Exhibits 1 and 2** to the Settlement Agreement;
4. Designate Plaintiffs Shira Kohn and Andres Vivas as Class Representatives;
5. Designate John J. Nelson of Milberg Coleman Bryson Phillips Grossman, PLLC and Justin C. Walker of Markovits, Stock & DeMarco, LLC as Settlement Class Counsel;
6. Approve the retention of Verita Global, LLC (formerly KCC) as Settlement Administrator;
7. Approve the procedures set forth in Section VIII of the Settlement Agreement for Settlement Class Members to exclude themselves from the Settlement Class or to object to the Settlement;
8. Approve the use of a Claim Form substantially similar to that attached as **Exhibit 3** to the Settlement Agreement;
9. Stay the Action or otherwise adjourn litigation deadlines pending Final Approval of the Settlement;
10. Stay and/or enjoin, pending Final Approval of the Settlement, any actions brought by Settlement Class Members concerning Released Claims; and
11. Schedule a Final Approval Hearing for a time and date convenient for the Court, at which the Court will conduct an inquiry into the fairness, reasonableness, and adequacy of the Settlement, final approval of the Settlement, and consideration of Settlement Class Counsel's Motion for Award of Fees, Costs, Expenses, and Service Awards for the Class Representatives.

This Motion is based upon: (1) this Motion; (2) the Memorandum; (3) the Declaration of Justin C. Walker in Support of this Motion, attached as **Exhibit A** to the Memorandum; (4) the

Declaration of Carla A. Peak, Vice President of Legal Notification Services for Verita Global, LLC, attached as **Exhibit C** to the Memorandum; (5) the Settlement Agreement; (6) the Notices of Class Action Settlement (both Short and Long Notice); (7) the Claim Form; (8) the [Proposed] Preliminary Approval Order; (9) the [Proposed] Final Order and Judgment; (10) the records, pleadings, and papers filed in this action; and (11) upon such other documentary and oral evidence or argument as may be presented to the Court at or prior to the hearing of this Motion.

Date: July 1, 2024

Respectfully Submitted,

/s/ Justin C. Walker  
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*Counsel for Plaintiffs and Putative Rule 23 Class*

#### **CERTIFICATION OF CONFERRAL**

I, Justin C. Walker, Interim Class Counsel and Counsel for Plaintiffs, hereby aver pursuant to Local Rule 7.1(D) that I have conferred with the Defendant about the relief sought in this motion, and Defendant agreed not to oppose the relief sought.

/s/ Justin C. Walker  
Justin C. Walker

**CERTIFICATE OF SERVICE**

I hereby certify that on July 1, 2024, I electronically filed the foregoing with the Clerk of the above-captioned Court by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Justin C. Walker  
Justin C. Walker